

Mar 06, 2020

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

GREGORY L. HYDE,

Petitioner,

v.

JAMES KEY, Superintendent,

Respondent.

NO: 2:19-CV-26-RMP

ORDER DENYING PETITIONER'S
AMENDED MOTION TO CERTIFY

BEFORE THE COURT is Petitioner's Amended Motion to Certify, ECF No. 62. Petitioner asks the Court to certify its prior Order Resolving Petitioner's Motions, ECF No. 59, for interlocutory review. The Court has reviewed the motion, the record, and is fully informed.

28 U.S.C. § 1292(b) allows district courts to certify orders for interlocutory appeal. This Court may certify the requested order if the "order involves a controlling question of law as to which there is substantial ground for difference of opinion." 28 U.S.C. § 1292(b). Additionally, the Court must find that "an immediate appeal from the order may materially advance the ultimate termination of

1 the litigation.” *Id.* Once an order is certified for interlocutory review by the district
2 court, the Court of Appeals, in its discretion, may permit an appeal of the order. *Id.*
3 Both the district court and the Court of Appeals must determine independently that
4 interlocutory review of the order is appropriate. *See id.*

5 Petitioner has not demonstrated that this Court’s prior Order Resolving
6 Petitioner’s Motions presents “a controlling issue of law as to which there is
7 substantial ground for difference of opinion.” *Id.* Additionally, the requested
8 interlocutory appeal would, in no way, advance the ultimate termination of this
9 litigation.

10 Accordingly, **IT IS HEREBY ORDERED:**

- 11 1. Petitioner’s Amended Motion to Certify, **ECF No. 62**, is **DENIED**.
12 2. Petitioner’s Motion to Certify, **ECF No. 60**, is **DENIED AS MOOT**.
13 3. Petitioner is reminded that any reply brief in this matter must be filed by

14 March 30, 2020 and that, absent truly exigent circumstances, the Court will
15 not entertain another motion to continue Petitioner’s deadline to file a reply
16 brief.

17 **IT IS SO ORDERED.** The District Court Clerk is directed to enter this
18 Order and to provide copies to counsel and Petitioner.

19 **DATED** March 6, 2020.

20 s/ Rosanna Malouf Peterson
21 ROSANNA MALOUF PETERSON
United States District Judge